

Appendix VI

Laws Governing Fire Districts in Idaho

In 1943, the Idaho legislature passed, and Governor C.A. Bottolfsen signed, the Idaho Fire Protection District Law. The law specifically recognized the legality of all fire protection districts and the legality of their officers existing prior to its passage. Pre-existing districts were instructed to comply with the provision of the law as soon as they could conveniently do so. Since that time, the law has been amended over two dozen times. The most comprehensive revision of the law occurred in 1994. The 1994 revisions stipulated that all districts created or annexed during the twelve-month period prior to June 1, 1994 were considered to be in full compliance with all applicable laws regardless of prior interpretations.

The basic purpose of the 1994 revisions was to establish procedures for the formation, operation, and dissolution of fire protection districts in the State of Idaho.

What follows is a general description of the steps needed for fire district formation, the expansion of an existing district to take in new territory, and to consolidate two or more districts into one district. Please note that whenever a reference is made to the singular action of one Board of County Commissioner hereafter in this description, it may include joint action taken or required by two or more boards of county commissioners where two or more counties are involved in fire district formation. This also applies to annexation of new territory, or consolidation of two or more fire districts in different counties. Boards of Commissioners in two or more counties are authorized by law to act jointly if a fire district has territory within each county. It is always best to seek competent legal advice if the intent is to form, annex, or consolidate districts.

Additional Information. For additional information regarding fire district officers, duties and responsibilities, operations of the Fire District Board of Commissioners, cooperative arrangements, finance, etc., refer to the Handbook for Idaho Fire Protection Districts.¹

I. Creation of a New Fire Protection District

A fire protection district may be created in any portion of a county that is not already organized into a district. Three steps must be followed to establish a fire protection district:

- 1) The proponents of the new district must file a petition with the Board of County Commissioners;
- 2) The Board of County Commissioner must hold a public hearing before the new district is formed; and
- 3) The qualified electors within the proposed district must approve the district's formation.

1) Filing the Petition: The first step in creating a fire protection district is to draw up a petition requesting its creation. The petition must designate the boundaries of the district, identify the proposed name, and include a map of the district. It must be signed by at least twenty-five property owners in the proposed district whose property holdings total at least 1,000 contiguous acres or

¹ Handbook for Idaho Fire Protection Districts. Bureau of Public Affairs Research. University of Idaho 2002. More information on how to obtain a handbook is found at the website: <http://www.uidaho.edu/bpar/fire.html>

have an assessed value of at least \$500,000 and are not currently included in any existing fire district.

The petition must be presented to the Board of County Commissioners and filed with the Clerk of the Board. The petition and supporting documents must be available for public inspection at the office of the Clerk from the time of filing until the election.

The petitioners must deposit with the Board enough money to cover the costs of advertising and hold the election to create the district. The Board determines the amount required and the funds must be deposited prior to the Board's publishing notice of the hearing for creation of the district. If the district is organized, the petitioners are reimbursed from the first tax money collected by the newly formed district for the advertising and election costs.

Any area within a city may be included within a fire protection district by resolution or ordinance of its governing board.

2) *The Hearing:* The Board of County Commissioners must set a time for a public hearing on the petition between four and six weeks after it has been filed. If the proposed fire protection district is located in two or more counties, the boards of commissioners of the affected counties must coordinate the hearing date and the publication of the hearing notice so that only one hearing is held. The hearing must be held in the county with the largest area in the proposed fire protection district. The boards of county commissioners representing the affected counties are authorized to act in a joint manner.

For three successive weeks prior to the hearing, the Board must publish notice of the hearing in a newspaper of general circulation in which the proposed district is to be located. The notice must include a description of the proposed district and its boundaries, the date of the public hearing, and state that all taxpayers within the proposed district may appear and express their views on the organization of the district and its boundaries. At the hearing, all objections are presented to the Board. After considering all testimony, the Board decides whether to deny the petition, grant it as filed, or grant it with modification. If the petition is granted, the Board of County Commissioners fixes the boundaries of the proposed district and files a map of the district with the Clerk of the Board.

3) *The Election:* After the Board of County Commissioners set the boundaries of the district, the Clerk of the Board must twice publish a notice of the election in a newspaper published within the county or counties affected to determine whether or not the district should be organized. The notice must clearly designate the names and boundaries of the proposed district and require voters to cast ballots containing the words "fire protection district, yes," or "fire protection district, no." The first notice must be published not less than 12 days prior to the election and the second not less than five days prior to the election. If the proposed fire protection district is to be located in two or more counties, the boards of county commissioners will conduct the election on the same day in each county.

Voter qualifications for a fire protection district election are the same as for other state elections: a qualified voter must be United States citizen, be at least 18 years old, and be residents of the state or the county for at least 30 days. The voter must also be a resident of the proposed fire protection district and be registered with the County Clerk.

The Board of County Commissioners creates as many election precincts within the proposed district as it deems necessary, and appoints three election judges for each precinct. The election judges forward the official election results to the Clerk of the Board of County Commissioners. Within ten days of receiving the returns, the Board of County Commissioners must canvass the votes. Where more than one county is involved, the boards of commissioners of the affected counties are to coordinate the canvassing and the announcement of the results.

The Board of County Commissioners in each county approving a newly formed district must provide a copy of the legal description and map, prepared in draftsman-like manner, to the County Assessor and Clerk and Recorder of the county or counties within thirty days of the effective date of district's formation. The fire protection district is responsible for filing the map and legal description with the State Tax Commission.

Initially, any newly created fire district must consist of three commissioners. At the time of establishment of a new fire protection district, the Board of County Commissioners shall divide the district into three subdivisions, as nearly equal in population and territory as possible.

II. Expanding an Existing Fire District

Annexation of territory within the same county. Both contiguous and noncontiguous territory may be annexed by an existing fire protection district; however, any noncontiguous territory to be included must, itself, consist of not less than forty -acre parcels of contiguous territory in order to qualify for annexation. There are two methods for annexing territory in the same county:

- At least 75 percent of the owners or contract purchasers of the land sought to be annexed may petition the fire protection board of commissioners for annexation. After receiving the petition, the fire protection district board must hold a public hearing within ten to thirty days. The fire protection district board must publish notice of the place of the hearing in at least one issue of a newspaper of general circulation within the district. Any person attending the hearing who wishes to express support or opposition must be allowed to speak at the hearing. After the hearing, the fire protection district board either approves or rejects the petition. If the board approves the petition, it makes an order to that effect and sends to the Board of County Commissioners a certified copy of the petition and a legal description of the annexed territory. The Board of County Commissioner enters and records an order of annexation, ensuring that the annexed property will be properly included in the tax rolls for the fire protection district.
- If at least 75 percent of the owners or contract purchasers of the land sought for annexation fail to sign the petition for annexation, or if the petition is denied, the territory may still be annexed by securing an affirmative vote of a majority of the qualified voters residing in the additional territory. The vote may be taken at either a general or special election. Before the annexation election, the inclusion must be approved by resolution of the board of the existing fire protection district and entered in the board minutes. The same procedures described above to create and organize a fire protection district, including petition, hearing, election notice, and an election, are to be followed for the annexation election.
- The Board of County Commissioners must provide a copy of the legal description and map, prepared in draftsman-like manner of the new boundaries to the County Assessor and Clerk and Recorder within 30 days of the effective date of the annexation of the district. The district is responsible for filing the map and legal description with the State Tax Commission.

Annexation of territory in an adjoining county. Contiguous or noncontiguous territory located in an adjoining county may be annexed to an existing fire protection district; however, any such noncontiguous territory proposed to be annexed must consist of at least forty contiguous acres. The procedures are similar to those required for the creation of a fire protection district with the following modifications:

- Two or more property owners of contiguous lands totaling at least 100 acres, or having an assessed value of at least \$125,000 may initiate proceedings.
- A petition describing the territory to be annexed, naming, and describing the fire protection district to which annexation is sought must be filed with the Board of County Commissioners of the county in which the new territory is situated. The petition must be accompanied by a map showing the boundaries of the original district, the territory proposed to be annexed, the location of the intervening county line, and a certified copy of a resolution of the fire district board consenting to the annexation.
- Notice of the hearing on the petition before the Board of County Commissioners must identify the territory proposed to be annexed, the time and place of the hearing, and state that any taxpayer in the territory may appear and present objections.
- After the hearing, if the petition is granted, the Board of County Commissioners enters an order fixing the boundaries of the annexed territory, directing the Clerk of the Board to have a map prepared. Certified copies of the order and the map are then sent to the Clerk of the Board of County Commissioners of the county in which the original fire protection district is situated.
- An election must then be held in the territory desiring annexation. Notice of the election must describe the boundaries of the territory for which annexation is sought. The notice must describe the form of the ballot to be used at the election.
- The territory proposed to be annexed constitutes one election precinct. If a voter is challenged, he/she must swear in addition to the usual elector's oath, "I am a resident within the boundaries of the territory proposed to be annexed to ____ Fire Protection District."
- The Board of County Commissioners canvasses returns of the election. If more than half of the voters support annexation, the Board of County Commissioners by order declares the territory to be annexed to the existing fire protection district. A certified copy of the order is sent to the board of the original fire protection district, to the Board of County Commissioners of the county in which the original district is situated, and to the County Clerk and Recorder of the county in which the newly annexed territory is situated.
- The Board of County Commissioners of the original fire district must provide a copy of the legal description and map showing the new boundaries of the district to the County Assessor and Clerk and Recorder within 30 days of the effective date of its formation. The fire protection district is responsible for filing the map and legal description with the State Tax Commission.
- At the first meeting of the Board of County Commissioners following the annexation, the Board must re-divide the expanded fire protection district into three subdivisions as equal as possible in terms of land area and population. No more than one fire protection district commissioner may reside in each subdistrict. If redistricting results in two commissioners residing in the same subdistricts, they must draw lots to determine who will remain in position. County Commissioners appoint individuals to fill any vacancies resulting from the annexation and the appointed commissioners serve for the remainder of the term to which they are appointed. Certified copies of appointments of the secretary and treasure of the fire district board must be filed with the clerks of the boards of county commissioners of the affected counties and the County Treasurers in which the district is located.

Any area within the boundaries of an incorporated city may, by resolution or ordinance of the governing board, be annexed to a fire protection district.

III. Consolidation of Fire Districts

One or more fire protection districts may consolidate with each other. Consolidation requires consent of all affected fire protection district boards, and under certain circumstances, the voters of the affected districts.

If two or more fire protection district boards determine it would be advantageous to consolidate into one fire protection district, the boards must prepare a consolidation agreement, which agreement must provide:

- The name of the proposed consolidated district;
- That all debts and property of the separate districts will be transferred to the consolidated district;
- The number of commissioners, either 3 or 5, on the new board;
- That all existing commissioners will be commissioners of the consolidated district until the next scheduled election when new commissioners will be elected;
- Employees of the consolidated district shall be chosen from employees of the existing districts, who shall also retain seniority rights under existing employment contracts or agreements.

Each of the fire district boards must approve the agreement. Between 10 and 30 days after approval of the consolidation agreement, each board must also hold a public hearing. Notice of the time and place of hearing must be published in at least one newspaper of general circulation within the proposed consolidated district at least 5 days before the hearing. Any persons attending the hearing must be given the opportunity to support or oppose the agreement. After the hearing, each board votes to approve or reject the proposed consolidation agreement. If each board approves, the agreement becomes effective and the consolidation is effective in 30 days unless a petition of objection is filed.

Consolidation may be initiated by the fire protection district commissioners in the districts affected. An alternative is a signed petition by 10 percent of the electors residing within the districts who voted in the last general election.